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C O N F I D E N T I A L SECTION 01 OF 02 COLOMBO 000149

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DEPARTMENT FOR SCA/INS AND DRL/NESCA

E.O. 12958: DECL: 02/11/2017

TAGS: [PGOV](#) [PHUM](#) [PREL](#) [MOPS](#) [CE](#)

SUBJECT: SRI LANKA: MINISTER'S STRATEGY FOR ENGAGEMENT WITH HUMAN RIGHTS COUNCIL

REF: A) GENEVA 107 B) GENEVA 108 C) 07 COLOMBO 959

Classified By: CLASSIFIED BY AMBASSADOR ROBERT O. BLAKE, JR. REASONS: 1. 4(b,d).

¶1. (C) SUMMARY: Ambassador met Human Rights Minister Mahinda Samarasinghe on January 25 to discuss a range of U.S. concerns about Sri Lanka's human rights situation, including recent incidents. Samarasinghe explained Sri Lanka's strategy for engagement with the UN Human Rights Council, emphasizing the GSL's resistance to a separate office for the staff of the High Commissioner for Human Rights (OHCHR), but expressing willingness to accept technical assistance for Sri Lanka's national Human Rights Commission. Samarasinghe made clear that Sri Lanka was opposed to discussing its human rights performance in a Special Session of the HRC, but was preparing its submission for the Universal Periodic review in mid-May. Samarasinghe appeared at times to be at a loss to account for discrepancies in government accounts of several human rights incidents and recent developments. End Summary.

¶2. (C) Minister Samarasinghe told Ambassador and Pol Chief on January 25 that the GSL was engaged in a full-press effort to prepare for the Universal Periodic review (UPR) of Sri Lanka in mid-May 2008. Samarasinghe said Sri Lanka welcomed the opportunity for a discussion of its human rights record "in a controlled atmosphere," indicating that the GSL would resist any effort to place Sri Lanka on the agenda of a Special Session. Sri Lankan government entities such as the Ministry of Foreign Affairs, the Attorney General's Office, and the Human Rights Commission were all working on Sri Lanka's submission to the UPR, which would be due in March. Samarasinghe said he had exhorted his colleagues to try to make progress on the international community's concerns between now and May, confiding that he would not be comfortable going into such a review based on the current state of play. "I told them they need to give me something to work with."

¶3. (C) Ambassador asked whether discussions with Louise Arbour about an enhanced presence of the Office of the High

Commissioner for Human Rights in Sri Lanka had reached an impasse, or were continuing. Samarasinghe repeated that the government would not entertain the idea of a separate status for the OHCHR, but wanted to talk about the possibility of technical assistance for the national Human Rights Commission. He noted that he and Arbour "have an excellent relationship. She says what she feels she has to say in public, and I do the same."

¶ 14. (C) Ambassador reiterated that it was well within the power of the security forces, who have an iron grip on the Jaffna peninsula, to rein in the groups that are responsible for extrajudicial killings, disappearances, and other serious abuses. Ambassador noted that the situation in Batticaloa was starting to resemble that in Jaffna.

¶ 15. (C) Ambassador expressed grave concern over the situation in the East, especially in Batticaloa, where armed groups are preparing to contest local elections, and extrajudicial killings are occurring at the rate of 1-2 per day. He urged the GSL to do more to assert control over law and order, saying that the police were clearly unwilling to confront the TMVP (Karuna/Pillaiyan faction). Samarasinghe expressed surprise, saying he would check with the Red Cross, because he had not seen evidence of this in the numbers the ICRC provides to the government. (Note: the ICRC has confirmed to us privately the spike in killings in Batticaloa - please strictly protect.)

¶ 16. (C) Ambassador noted that many of the problems Sri Lanka continued to experience with human rights violations, the lack of accountability and other governance and transparency

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issues were traceable to the GSL's failure to appoint the Constitutional Council in accordance with the 17th Amendment to the Constitution (septel to follow). Since the minority parties had reached agreement on the composition of the Committee, when would the President take action to appoint it? Samarasinghe said that the agreement of the JHU had only been obtained in the last few days and the government was waiting for the official communication. He observed that "a lot of the flak we are taking would come down" once the Constitutional Council and the independent commissions it appoints were in place. He argued that the perception that the president was deliberately hindering the formation of the Constitutional Council "should not be so negative."

¶ 17. (C) Samarasinghe noted that the public inquiry phase had started on the case of the five Tamil youths killed in Trincomalee ("Trinco 5"). He expressed hope that progress might also be made on the case of the 17 aid workers massacred in Muttur: "If we can finish that, I'll be a lot happier." Ambassador said the U.S. and others would also welcome progress in the high-profile cases within the CoI's ambit and inquired about the status of witness protection legislation. Samarasinghe said that the proposal was still with the legal draftsman in the Ministry of Justice, after which the bill would go back to the Cabinet of Ministers for approval.

¶ 18. (C) Ambassador asked about the progress of the investigation into the killing of Tamil opposition MP Maheswaran on January 1 while worshiping in a Hindu Temple. Samarasinghe pointed out that the President had announced that the killer had confessed to being a member of the LTTE. Ambassador asked about the relevance of a statement by GSL defense spokesperson Rambukwella that the suspect had previously been a member of the security detail of Social Affairs Minister Douglas Devananda (also head of the pro-government paramilitary group EPDP). Samarasinghe could offer no explanation.

¶ 19. (C) Ambassador then inquired about the recent release on bail and dismissal of most charges against former Air Force Group Captain Nishantha Gajanayake and others who had been

arrested for involvement in the abduction and murder of two Sri Lankan Red Cross workers and other "disappearances," noting that a senior military official had appeared to post bail for Gajanakaye. Samarasinghe appeared deeply embarrassed, only saying, "I don't know" and suggesting that we ask the Attorney General about the status of the case.

¶110. (C) COMMENT: Samarasinghe is an important interlocutor, especially in the context of the Consultative Committee on Humanitarian Access (CCHA), which he chairs. Our recent interactions with him on human rights issues have been less productive, with Samarasinghe often appearing to be engaged in simple damage control efforts. Defending Sri Lanka's spotty human rights record is a difficult task, and Samarasinghe in this meeting appeared uncharacteristically nonplussed. The upcoming UPR will constitute a major opportunity for member states to question Sri Lanka on its failure to address human rights concerns. Samarasinghe is well aware of this and is seeking to use this to prod action on the Constitutional Council and perhaps other concerns.

BLAKE